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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,504	11/30/2005	Reinhold Meier	011235.56348US	4533

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CROWELL & MORING LLP  
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WASHINGTON, DC 20044-4300

EXAMINER
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LEE, GILBERT Y

ART UNIT	PAPER NUMBER
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3673

MAIL DATE	DELIVERY MODE
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07/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/537,504

Applicant(s)

MEIER, REINHOLD

Examiner

Gilbert Y. Lee

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-40 is/are pending in the application.
- 4a) Of the above claim(s) 32-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/3/05</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, drawn to a honeycomb seal, in the reply filed on 6/22/07 is acknowledged. The traversal is on the ground(s) that that both Groups of claims relate to a single general inventive concept since both groups are directed to manufacturing a honeycomb seal by powder metallurgical injection molding. This is not found persuasive because apparatus claims cannot claim method limitations. Therefore, Group I is merely claiming a honeycomb seal and how they are produced/manufactured is not being claimed.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 32-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Claim Objections***

3. The examiner is making an inquiry to claims 28 and 29. The preamble to the claims clearly claim a honeycomb seal; however, the body of the claims seem to claim a rotor and a stator. It is unclear to the examiner as to whether the applicant is claiming the combination of a rotor, stator, and honeycomb seal as the body of the claim suggests or if the applicant is claiming only the subcombination of a honeycomb seal as the preamble suggests. For the purposes of this examination, the examiner is

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interpreting the claims to be claiming just the subcombination of a honeycomb seal, with the rotor and stator being merely intended use.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 15 and 20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 15 and 20, the phrase "in particular" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15-18, 20-22, and 24-31 are rejected under 35 U.S.C. 102(b) as being anticipated by McGinnis et al. (US Patent No. 4,416,457).

Regarding claim 15, the McGinnis et al. reference discloses a honeycomb seal (Fig. 1), in particular to seal a radial gap (Fig. 1) between a rotor (e.g. 1) and a stator (e.g. 5) of a gas turbine. MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is that same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." The process by which the honeycomb seal is made is not a patentable distinction.

Regarding claim 16, the McGinnis et al. reference discloses the honeycomb seal being composed of several segments (Col. 1, Lines 51-55) and wherein the segments are embodied as a single piece (Fig. 1) and include a base element (7) and honeycomb elements (e.g. 9), and further wherein the base element bears the honeycomb elements (Fig. 1).

MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is that same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." Claim 17 is anticipated by McGinnis et al. The process by which the segments are made is not a patentable distinction.

Regarding claim 18, the McGinnis et al. reference discloses the segments being connectable to a supporting structure (e.g. 5) and wherein the segments and the supporting structure are manufactured of different materials (Fig. 1).

Regarding claim 20, the McGinnis et al. reference discloses a honeycomb seal (Fig. 1), in particular to seal a radial gap (Fig. 1) between a rotor (e.g. 1) and stator (e.g.

1) of a gas turbine, wherein the honeycomb seal has a base element (e.g. 7) and honeycomb elements (e.g. 9) that are embodied as a single piece with the base element (Fig. 1).

Regarding claim 21, the McGinnis et al. reference discloses the honeycomb seal being composed of several segments (Col. 1, Lines 51-55), wherein each segment has a base element and honeycomb elements that are embodied as a single piece with the base element (Fig. 2).

Regarding claim 22, the McGinnis et al. reference discloses the base element of each segment including at least one guide section (e.g. sections of element 7 overlapped by element 5) and wherein each segment is connectable to a supporting structure via the guide section (Fig. 1).

Regarding claim 24, the McGinnis et al. reference discloses the segments of the honeycomb seal and the supporting structure being manufactured of different materials (Fig. 1).

MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is that same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." Claim 25 is anticipated by McGinnis et al. The process by which the honeycomb seal is made is not a patentable distinction.

Regarding claim 26, the McGinnis et al. reference discloses the honeycomb seal and the supporting structure being manufactured as a single piece (Fig. 1).

Regarding claim 27, the McGinnis et al. reference discloses the honeycomb seal and the supporting structure being manufactured as a single piece (Fig. 1).

Regarding claims 28 and 29, the McGinnis et al. reference, as best understood, discloses the radial gap sealed by the honeycomb seal lying between a rotating moving blade of the rotor and a housing of the stator or between a non-rotating guide blade of the stator and the rotor (Col. 1, Lines 46-50).

Regarding claims 30 and 31, the McGinnis reference discloses the honeycomb elements and the base element being composed of different materials (Fig. 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGinnis et al. in view of Inoue (EP Pub. No. 1,298,368 A2).

Regarding claim 19, the McGinnis et al. reference discloses the base element of the segments including at least one guide section (e.g. sections of element 7 overlapped by element 5), wherein the segments are connectable to the supporting structure via the guide section (Fig. 1).

However, the McGinnis et al. reference fails to explicitly disclose adjacent segments being interlocked with each by a projection of a first segment engaging with a corresponding recess of a second segment.

The Inoue reference, a seal for a turbine, discloses interlocking segments using a projection (15B) and recess (15A).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the McGinnis et al. reference with projections and recesses for interlocking each segment in view of the teachings of the Inoue reference in order to prevent radial displacement of the segments when the seal is in use.

Regarding claim 23, the McGinnis et al. reference discloses the invention substantially as claimed in claim 22.

However, the McGinnis et al. reference fails to explicitly disclose adjacent segments being interlocked with each by a projection of a first segment engaging with a corresponding recess of a second segment.

The Inoue reference, a seal for a turbine, discloses interlocking segments using a projection (15B) and recess (15A).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the McGinnis et al. reference with projections and recesses for interlocking each segment in view of the teachings of the Inoue reference in order to prevent radial displacement of the segments when the seal is in use.

### ***Conclusion***

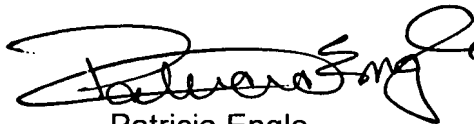


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gilbert Y. Lee whose telephone number is 571-272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GL  
July 9, 2007

A handwritten signature in black ink, appearing to read 'Patricia Engle', with a stylized flourish at the end.

Patricia Engle  
Supervisory Examiner  
Tech. Center 3600